

ISSUED BY THE

UNITED STATES DISTRICT COURT
SOUTHERN **DISTRICT OF** **OHIO**

MICHEAL BIES

V.

MARGARET BAGLEY, WARDEN

SUBPOENA IN A CIVIL CASE
DUCES TECUM
CASE NUMBER:¹ CV-1-00-682

TO: RECORDS CUSTODIAN, Hamilton County Adult Probation Department, 800 Broadway, Cincinnati, Ohio 45202

YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A

PLACE	DATE AND TIME
Office of the Hamilton County Prosecutor, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202	Tuesday, November 16, 2004 10:00 a.m.

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 S. Scott Haynes Hallowes, Allen & Haynes 6445 E. Livingston Avenue, Reynoldsburg, Ohio 43068-3560, (614) 868-0009	11-5-04

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

S. Scott Haynes
Hallowes, Allen & Haynes
6445 E. Livingston Avenue, Reynoldsburg, Ohio 43068-3560, (614) 868-0009

(See Rule 45, Federal Rules of Civil Procedure, parts C & D on Reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE		
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoenas, quash or modify the subpoena or if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

TO: Hamilton County Adult Probation
800 Broadway, 4th Floor
Cincinnati, Ohio 45202

1. The term "Document" when used herein, shall have the same meaning as defined in rule 34 of the Federal Rules of Civil Procedure, including all originals of any nature whatsoever, identical copies and all non-identical copies thereof pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where located; including, without limiting the generality of the foregoing, punch cards, print-out sheets, video or movie film, slides, phonographs, records, photographs, microfilm, notes, letters, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, drafts, data processing discs or tapes, and computer produced interpretations thereof, x-rays, instructions, announcements, schedules, price lists, and mechanical or electrical sound recordings and transcripts thereof.

2. The term "relating to" when used herein, means any document that constitutes, contains, embodies, reflects, identifies, states, refers to, or is in any way relevant to that given subject.

DOCUMENTS TO BE PRODUCED

All documents relating to Dallas Luther Hayes aka Dallas Raines (D.O.B. January 7, 1973).

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Michael Bies,)
Petitioner,)
vs.) Case No.: CV-1-00-682
Margaret Bagley, Warden,) District Judge Susan J. Dlott
Respondent.) Magistrate Judge Michael R. Merz

PETITIONER BIES' NOTICE TO TAKE RECORDS DEPOSITION

TO: Carol A. Ellensohn (0074598)
Assistant Attorney General

Charles L. Wille (0056444)
Assistant Attorney General
Capital Crimes Section
30 East Broad Street, 23rd Floor
Columbus, Ohio 43215-3428
(614) 728-7055; (614) 728-8600 (fax)

Counsel for Respondent

PLEASE TAKE NOTICE that the attorneys for the Petitioner Michael Bies will take the depositions of the following persons upon oral examination before a notary public, at the offices of the Hamilton County Prosecutor, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 on the date and time as set forth hereafter.

<u>Name of Witness</u>	<u>Date and Time of Deposition</u>
Records Custodian Hamilton County Adult Probation 800 Broadway, 4th Floor Cincinnati, Ohio 45202	Tuesday, November 16, 2004 10:00 a.m.

Records Custodian
Cincinnati Police Department
824 Broadway
Cincinnati, Ohio 45202

Tuesday, November 16, 2004
10:30 a.m.

Records Custodian
Office of the Hamilton County Prosecutor
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202

Tuesday, November 16, 2004
11:00 a.m.

Records Custodian
Central Psychiatric Clinic
County Diagnostic and Treatment Center
909 Sycamore Street, 4th Floor
Cincinnati, Ohio 45202

Tuesday, November 16, 2004
11:45 a.m.

The depositions shall continue from day to day until completed. The depositions shall be used for any purpose permitted by the Federal Rules of Civil Procedure.

The subpoena duces tecum to be sent to these witnesses are attached hereto.

Respectfully submitted,

s/ S. Scott Haynes
S. SCOTT HAYNES - 0059586
Hallowes, Allen & Haynes
6445 East Livingston Avenue
Reynoldsburg, Ohio 43068-3560
Telephone: (614) 868-0009
Facsimile: (614) 868-0029

And

DAVID H. BODIKER
Ohio Public Defender
RANDALL L. PORTER - 0005835
Assistant State Public Defender

Office of the Ohio Public Defender
8 East Long Street, 11th Floor
Columbus, Ohio 43215-2998
Telephone: (614) 466-5394
Facsimile: (614) 728-3670

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **PETITIONER BIES' NOTICE TO TAKE RECORDS DEPOSITION** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's system.

s/ S. Scott Haynes

S. SCOTT HAYNES

COUNSEL FOR PETITIONER